



7020-02

## **INTERNATIONAL TRADE COMMISSION**

**[Investigation No. 337-TA-1094]**

### **Certain IoT Devices and Components Thereof (IoT, the Internet of Things) – Web Applications Displayed on a Web Browser; Institution of Investigation**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on October 3, 2017, under section 337 of the Tariff Act of 1930, as amended, on behalf of Lakshmi Arunachalam, Ph.D. of Menlo Park, California. Supplements were filed on October 24, October 30, and November 3, 2017. On November 7, 2017, an amended complaint was filed with the U.S. International Trade Commission under section 337 of the Tariff Act of 1930, as amended, on behalf of Lakshmi Arunachalam, Ph.D. and WebXchange, Inc., both of Menlo Park, California. Supplements were filed on November 7, 13, and December 21, 2017. On December 6, 2017, the Commission postponed the vote on whether to institute an investigation based on the amended complaint to January 9, 2017. The amended complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain IOT devices and components thereof (IOT, the internet of things) – web applications displayed on a web browser by reason of infringement of certain claims of U.S. Patent No. 7,930,340 (“the ’340 patent”), and that an industry in the United States exists as required by the applicable Federal Statute. The amended complaint further alleges unfair methods of competition and unfair acts (criminal and civil RICO violations, breach of contract, theft of intellectual property, antitrust violations, and

trade secret misappropriation), the threat or effect of which is to destroy or substantially injure an industry in the United States.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

**ADDRESSES:** The amended complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Room 112, Washington, D.C. 20436, telephone (202) 205-2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205-2000. General information concerning the Commission may also be obtained by accessing its internet server at <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>.

**FOR FURTHER INFORMATION CONTACT:** Pathenia M. Proctor, The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205-2560.

**SUPPLEMENTARY INFORMATION:**

*Authority:* The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 C.F.R. 210.10 (2018).

*Scope of Investigation:* Having considered the complaint, the U.S. International Trade Commission, on January 12, 2018, **ORDERED THAT** –

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain IoT devices and components thereof (IoT, the internet of things) – web applications displayed on a web browser by reason of infringement of one or more of claims 1-40 of the '340 patent; and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) Pursuant to Commission Rule 210.50(b)(1), 19 C.F.R. 210.50(b)(1), the presiding Administrative Law Judge shall take evidence or other information and hear arguments from the parties or other interested persons with respect to the public interest in his investigation, as appropriate, and provide the Commission with findings of fact and a recommended determination on this issue, which shall be limited to the statutory public interest factors set forth in 19 U.S.C. sections 1337(d)(1), (f)(1), (g)(1);

(3) Notwithstanding any Commission Rules that would otherwise apply, the presiding Administrative Law Judge shall hold an early evidentiary hearing, find facts, and issue an early decision, as to whether the complainant has satisfied the domestic industry requirement. Any such decision shall be in the form of an initial determination (ID). Petitions for review of such an ID shall be due five calendar days after service of the ID; any replies shall be due three business days after service of a petition. The ID will become the Commission's final determination 30 days after the date of service of the ID unless the Commission determines to review the ID. Any such review will be conducted in accordance with Commission Rules 210.43, 210.44, and 210.45, 19 C.F.R. §§ 210.43, 210.44, and 210.45. The Commission expects the issuance of an early ID relating to the domestic industry requirement within 100 days of

institution, except that the presiding ALJ may grant a limited extension of the ID for good cause shown. The issuance of an early ID finding that complainants do not satisfy the domestic industry requirement shall stay the investigation unless the Commission orders otherwise; any other decision shall not stay the investigation or delay the issuance of a final ID covering the other issues of the investigation.

(4) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are:

Lakshmi-Arunachalam, Ph.D.

222 Stanford Avenue

Menlo Park, CA 94025

WebXchange, Inc.

222 Stanford Avenue

Menlo Park, CA 94025

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Apple Inc.

1 Infinite Loop,

Cupertino, California 95014

Facebook, Inc.

1 Hacker Way

Menlo Park, CA 94025

Samsung Electronics America, Inc.

85 Challenger Road

Ridgefield Park, NJ

Samsung Electronics Co., Ltd.

129, Samsung-ro, Yeongtong-gu, Suwon-si,

Gyeonggi-do, Korea;

Headquarters: 40th floor Samsung Electronics

Building, 11, Seocho-daero 74-gil,

Seocho District, Seoul, South Korea

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, S.W., Suite 401, Washington, D.C. 20436; and

(5) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 C.F.R. 210.13. Pursuant to 19 C.F.R. 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations

of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: January 17, 2018.

**Lisa R. Barton,**

*Secretary to the Commission.*

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